

Charter  
Government-Industry Advisory Panel

1. Committee's Official Designation: The Committee shall be known as the Government-Industry Advisory Panel ("the Panel").
2. Authority: The Secretary of Defense, pursuant to section 813(b)(1) of the National Defense Authorization Act for Fiscal Year 2016 (FY 2016 NDAA) (Public Law 114-92) as amended by section 809(f) of the National Defense Authorization Act for Fiscal Year 2017 ("the FY 2017 NDAA") (Public Law 114-328) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(a), established this statutory Panel.
3. Objectives and Scope of Activities: The Panel, consistent with section 813(b)(1) of the National Defense Authorization Act for Fiscal Year 2016 (FY 2016 NDAA) (Public Law 114-92) as amended by section 809(f) of the Fiscal Year 2017 NDAA, shall provide to the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), a review of 10 U.S.C. §§ 2320 and 2321, regarding rights in technical data and the validation of proprietary data restrictions and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interests of the taxpayers and the national defense. The Panel shall develop recommendations for changes to 10 U.S.C. §§ 2320 and 2321 and the regulations implementing such sections.
4. Description of Duties: The Panel, not later than February 1, 2017, shall submit to the Secretary of Defense a final report of its findings and recommendations. Not later than 60 days after receiving the report, the Secretary of Defense shall submit a copy of the report, together with any comments or recommendations, to the Congressional Defense committees.

In conducting its review required by section 813(b)(1) of the FY 2016 NDAA, the Panel shall give appropriate consideration to the following factors:

- A. Ensuring that the Department of Defense does not pay more than once for the same work.
- B. Ensuring that Department of Defense contractors are appropriately rewarded for their innovation and invention.
- C. Providing for cost-effective procurement, sustainment, modification, and upgrades to Department of Defense systems.
- D. Ensuring that the Department of Defense and Department of Defense contractors have the technical data rights necessary to support the modular open system approach requirements set forth in 10 U.S.C. § 2446a, taking into consideration the distinct characteristics of major system platforms, major stem interfaces, and major system components developed exclusively with Federal funds, exclusively at private expense, and with a combination of Federal funds and private expense.
- E. Encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the Department of Defense.

Charter  
Government-Industry Advisory Panel

- F. Ensuring that the Department of Defense has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.
5. Agency or Official to Whom the Committee Reports: The Panel shall report to the Secretary and Deputy Secretary of Defense, through the USD(AT&L).
  6. Support: The DoD, through the Office of the USD(AT&L), shall provide the necessary support for the Panel and shall ensure compliance with requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended) (“the Sunshine Act”), governing Federal statutes and regulations, and established DoD policies and procedures.
  7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost, to include travel, meetings, and contract support, is approximately \$150,000. The estimated annual personnel cost to the DoD is 2 full-time equivalents.
  8. Designated Federal Officer: The Panel’s Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, designated in accordance with established DoD policies and procedures.

The Panel’s DFO is required to be in attendance at all Panel and subcommittee meetings for the duration of each and every meeting. However, in the absence of the Panel’s DFO, a properly approved Alternate DFO, duly designated to the Panel according to DoD policies and procedures, will attend the entire duration of all of the Panel or subcommittee meetings.

The DFO, or the Alternate DFO, will call all of the Panel and its subcommittee meetings; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

9. Estimated Number and Frequency of Meetings: The Panel will meet at the call of the Panel’s DFO, in consultation with the USD(AT&L) and the Panel’s Chair. The estimated number of Panel meetings is no more than six meetings per year.
10. Duration: The Panel shall remain in effect until it submits its final report and recommendations to the Secretary of Defense, to occur not later than February 1, 2017.
11. Termination: The Panel shall terminate upon submission of its final report to the Secretary of Defense, to occur not later than February 1, 2017.
12. Membership and Designation: The Panel shall be composed of no more than 20 members. Consistent with section 813(b)(2) of the FY 2016 NDAA, Panel members selected from the Federal government will be knowledgeable about technical data issues and appropriately represent the three military departments, as well as the legal, acquisition, logistics, and research and development communities in the Department of Defense; and Panel members selected from the private sector will include independent experts and individuals

Charter  
Government-Industry Advisory Panel

appropriately representative of the diversity of interested parties, including large and small businesses, traditional and nontraditional government contractors, prime contractors and subcontractors, suppliers of hardware and software, and institutions of higher education.

The appointment of Panel members will be authorized by the Secretary of Defense or the Deputy Secretary of Defense and administratively certified by the USD(AT&L), for a term of service equal to the life of the Panel, with annual renewals, as appropriate, and in accordance with DoD policies and procedures. Members of the Panel who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. Panel members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members. No member, unless authorized by the Secretary of Defense, may serve on more than two DoD federal advisory committees at one time.

All members of the Panel are appointed to provide advice on the basis of their best judgment on behalf of the Government without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Panel-related travel and per diem, Panel members serve without compensation.

Pursuant to section 813(b)(2) of the FY 2016 NDAA and consistent with authority delegated to DoD Sponsors, the USD(AT&L) shall appoint the Panel's Chair from among the membership previously authorized by the Secretary of Defense or Deputy Secretary of Defense.

13. Subcommittees: The DoD, as necessary and consistent with the Panel's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Panel. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(AT&L), as the DoD Sponsor.

Such subcommittees shall not work independently of the Panel and shall report all their recommendations and advice solely to the Panel for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Panel. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. If a majority of Panel members are appointed to a particular subcommittee, then that subcommittee may be required to operate pursuant to the same notice and openness requirements of the FACA which govern the Panel's operations.

Pursuant to Secretary of Defense policy, the USD(AT&L) is authorized to administratively certify the appointment of subcommittee members if the Secretary of Defense or the Deputy Secretary of Defense has previously authorized the individual's appointment to the Panel or another DoD advisory committee. If the Secretary of Defense or the Deputy Secretary of Defense has not previously authorized the appointment of the individual to the Panel or another DoD advisory committee, then the individual's subcommittee appointment must first

Charter  
Government-Industry Advisory Panel

be authorized by the Secretary of Defense or the Deputy Secretary of Defense and subsequently administratively certified by the USD(AT&L).

Subcommittee members, with the approval of the Secretary of Defense, will be appointed for a term of service equal to the life of the Panel. Subcommittee members, if not full-time or part-time Federal officers or employees, will be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 C.F.R. § 102-3.130(a) to serve as RGE members. With the exception of reimbursement for travel and per diem as it pertains to official travel related to the Panel or its subcommittees, subcommittee members shall serve without compensation.

The Secretary of Defense authorizes the USD(AT&L) to appoint the chair of any appropriately approved subcommittees from among the subcommittee membership previously approved according to DoD policies and procedures. Each subcommittee member is appointed to provide advice on the basis of his or her best judgment on behalf of the Government without representing any particular point of view and in a manner that is free from conflict of interest. All subcommittees operate under the provisions of the FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

14. Recordkeeping: The records of the Panel and its subcommittees shall be managed in accordance with General Record Schedule 6.2, Federal Advisory Committee Records, or other approved agency records disposition schedule, and the appropriate DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).

15. Filing Date: February 22, 2016

16. Amended: March 1, 2017